

No. 9/6/86-6Lab./5406.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Tarun Agencies, 116/10, Idgah Road, Ambala Cantt :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,

AMBALA

Reference No. 304 of 1984

(old No. 185 of 1982)

SHRI MILKHI RAM, WORKMAN AND THE MANAGEMENT OF THE M/S TARUN AGENCIES, 116/10, IDGAH ROAD, AMBALA CANTT

Present :

Shri Balbir Singh Saini, for workman.

Shri Surinder Kaushal, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Milkhi Ram and Messrs Tarun Agencies, Idgah Road, Ambala Cantt originally to Labour Court, Faridabad. The terms of the reference are as under :—

Whether the termination of services of Shri Milkhi Ram was justified and in order ? If not, to what relief is he entitled?

On constitution of Labour Court at Ambala in April, 1984 this reference was received by transfer.

Workman through his demand notice, dated 19th March, 1982 alleged that he has been in service of respondent-management since 7th July, 1980 to 7th January, 1982 as a Clerk. His services were terminated without issuing any charge-sheet notice and without conducting any enquiry as well as in violation of section 25 (F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the respondent-management is not an industry in fact Establishment of management is registered under the Punjab Shops and Commercial Establishment Act. It deals in distribution of medicine. So it was contended that the claim of the workman is not tenable and is liable to be dismissed on this score. It is also contended that the workman left his job of his own. On receipt of full and final settlement on 7th January, 1982 and there is no question of retrenchment of services of the workman by the management.

On the pleadings of the parties the following issues were framed :

Issues:

1. Whether the respondent-management is covered under the definition of industry under Industrial Disputes Act, 1947 ? OPW
2. As per reference.

I have heard Shri Balbir Singh, Saini, for workman and Shri Surinder Kaushal for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under.

Issue No. 1:

In respect of this issue I would like to refer statement of Shri Darshan Singh, MW-1 who stated that respondent-management deals in distribution of medicine, and it is registered under the Shops Act. He produced photo stat copy of form F, which is Ex-M-3. This fact further finds support from the state-

ment of Shri Kirat Patel MW-2. On the other hand Shri Milkhi Ram Workman along appeared in the witness box, he did not utter even a single word whether the respondent Establishment is registered under the Shops Act or it is an Industry which shows that in fact there is no evidence on this point from the side of workman.

In 1980-FJR-Vol-157 page 206 in a case Navashahar Central Cooperative Bank Ltd. Vs Labour Court, Jullandar and others Hon'ble Justice Mr. R. N. Mittal observed that where establishment is registered under the Punjab Shops and Establishment Act, 1958. It is the duty of the workman to claim his reinstatement under section 22 (1) of the Punjab Shops and Establishment Act, 1948 and he is not entitled to any relief under section 25 of Industrial Disputes Act, 1947.

So in view of the above evidence on the file and law cited above I am of the considered opinion that the Punjab Shops and Commercial Establishment Act, 1958 is a complete code. The respondent-management is registered under this act as it is evident from Photo Stat Copy of form (F) which is Ex-M-3 coupled with statement of MW-1 and MW-2. So it was the duty of the workmen to have sought relief under the Shops Act and not under the I. B. Act, because the Establishment does not come in the purview of Industry, so this issue is decided, in favour of, the management against the workman.

Issue No. 2

Management in support of this case, amended Ex-MW-1 Darshan Singh Office Manager of Delhi Branch and Shri Kirat Patel one of the Partner and General Manager posted at Amritsar as MW-2. Both the witnesses stated that workman was in the employment of respondent management, It left service of the management of his own. Workman wanted that his wages be enhanced but the management cut a sorry figure due to that fact so workman left job of his own an receipt full and final payment,—*vide* Ex-M-1.

Workman denied his signatures on Ex-M-1 and the main stress of the workman and his A. R. is that Ex-M-1 is a Authorised documents but this contentions is not correct and does not lie in the mouth of workman because Shri Darshan Singh stated on oath that Shri Milkhi Ram had done Diploma in Drama, so he had expressed his desire to quit the job of management and thereafter one day he came with a plea that either his pay be increased or he would leave the job. Ultimately he took full and final payment and left the job of the management voluntarily. In such circumstances it is natural that such a person shall put his signatures in a disguised manner. So that it may become difficult later on to appear similar to the other signatures put in a natural way. Such a practice appears to have been adopted by Shri Milkhi Ram in this case also.

This sole statement of Shri Milkhi Ram cannot be accepted as a gospel truth because he has devoted himself in dramatic work as admitted by him in his own statement.

On the basis of evidence of the parties I reach at the conclusion that it is a case of abandonment of service by the workman himself, one receipt of full and final payment. So this issue is also decided against the workman, in favour of, management.

Issue No. 3

For the foregoing reasons on the basis of my findings on issue No. 1 and 2 a claim of the workman fails. He is not entitled to reinstatement with continuity in service and with full back wages.

So I pass award regarding the controversy between the parties accordingly.

V. P. CHAUDHARY,

Dated the 23rd May, 1986.

Presiding Officer,
Labour Court,
Ambala.

Endst. No. 1475, dated the 27th May, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court,
Ambala.